

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**GUADALUPE RIVER RESORT
RANCH, LTD.,**

Plaintiff,

VS.

**PHILADELPHIA INDEMNITY
INSURANCE COMPANY,**

Defendant.

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CIVIL NO. 5:17-cv-1058

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Pursuant to 28 U.S.C. §§ 1332, 1441(b) and 1446(a), Philadelphia Indemnity Insurance Company, the Defendant in the above-styled action, files this Notice of Removal from the District Court of Kendall County, Texas, 451st Judicial District, to the United States District Court for the Western District of Texas, San Antonio Division.

INTRODUCTION

1. Plaintiff is Guadalupe River Resort Ranch, Ltd. ("Plaintiff").
2. Defendant Philadelphia Indemnity Insurance Company ("Defendant") is the only Defendant that Plaintiff has sued in this action.
3. Plaintiff commenced this first-party insurance case on August 31, 2017. Plaintiff has asserted causes of action arising under Texas law against Defendant for allegedly breaching the insuring agreement, violating provisions of the Prompt Payment of Claims Act codified at chapter 542 of the Texas Insurance

Code, violating provisions of chapters 541 of the Texas Insurance Code, and breach of the duty of good faith and fair dealing.

4. Defendant was served with process on September 20, 2017. Defendant is therefore timely filing this Notice of Removal by removing this action “within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.” 28 U.S.C. § 1446(b)(3).

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5. Pursuant to 28 U.S.C. § 1441(a), this action may be removed to this Court because it is the district and division embracing Kendall County, Texas, the county in which the state court action is pending.

BASIS FOR REMOVAL

6. This is a civil action that falls under the Court’s original jurisdiction pursuant to 28 U.S.C. § 1332(a) and is one that may be removed to this Court based on diversity of citizenship in accordance with 28 U.S.C. §§ 1441 and 1446.

A. Complete Diversity of Citizenship Exists Between Plaintiff and Defendant.

7. Plaintiff is a Texas corporation with its principal place of business in Kendall County, Texas. Pl.’s Orig. Pet. ¶ 2, at 1 (included as a part of **Exhibit 3**).

8. Philadelphia is a corporation organized and existing under the laws of the State of Pennsylvania. *See* Affidavit of Eugene Angiolillo, attached as **Exhibit 1**

(attesting to the facts that Philadelphia is incorporated in and maintains its principal place of business in Pennsylvania. *See id.*

9. Complete diversity of citizenship therefore exists between all plaintiffs and all defendants.

B. The Amount in Controversy Exceeds \$75,000.

10. Plaintiff's Original Petition alleges that "Plaintiff seeks monetary relief over \$1,000,000." Pl.'s Orig. Pet. ¶ 5, at 2.

11. Plaintiff therefore seeks damages, exclusive of interest and attorney's fees, in excess of the jurisdictional minimum of \$75,000.

C. Removal Is Appropriate Under the Court's Diversity Jurisdiction.

12. In light of these facts, the state court claim may be removed to this Court because: (i) this action is a civil action pending within the jurisdiction of the United States District Court for the Western District of Texas; (ii) none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought, 28 U.S.C. § 1441(b)(2); and (iii) the amount in controversy exceeds \$75,000, exclusive of interests and costs.

FILING OF REMOVAL PAPERS

13. Pursuant to 28 U.S.C. § 1446(d), Defendant is providing written notice of the filing of this Notice of Removal to all other counsel of record. Further, Defendant is filing a copy of this Notice of Removal with the Clerk of the 451st Judicial District Court of Kendall County, Texas, where Plaintiff commenced this action.

14. Defendant is filing the following items concurrently with this Notice of Removal, or attaching them to this Notice of Removal as required by Western District of Texas Local Rule 81.1: (a) a completed civil cover sheet, JS-44 (**Exhibit 2**); (b) an index of all documents that identifies each document and indicates the date the document was filed in state court, and copies of each such document (**Exhibit 3**); (c) all executed process in the case (**Exhibit 4**); a copy of the docket sheet in the state court action (**Exhibit 5**); and (d) a list of all counsel of record (**Exhibit 6**).

CONCLUSION

Based on the foregoing, Defendant Philadelphia Indemnity Insurance Company gives notice to the Court of its removal of the above-captioned action from the 451st Judicial District Court of Kendall County, Texas, and requests that further proceedings be conducted in the United States District Court for the Western District of Texas, San Antonio Division, as provided by law.

Dated: October 19, 2017

Respectfully submitted,

/s/ William R. Pilat

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CERTIFICATE OF SERVICE

I certify that on October 19, 2017, a true and correct copy of the foregoing pleading was forwarded to all other counsel of record, as listed below, through the electronic case filing system of the United States District Court for the Western District of Texas:

William T. Jones Jr.
Robert D. Green
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1201 Shepherd Drive
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/s/ William R. Pilat
William R. Pilat